

Assembly Bill No. 2126

Passed the Assembly May 4, 2006

Chief Clerk of the Assembly

Passed the Senate June 29, 2006

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 580 of the Code of Civil Procedure, and to amend Section 290 of, and to repeal and add Sections 291 and 4502 of, the Family Code, relating to enforcement of judgments.

LEGISLATIVE COUNSEL'S DIGEST

AB 2126, Lieu. Enforcement of judgments.

(1) Existing law provides that certain types of relief may not be granted in a limited civil case, including enforcement of an order under the Family Code.

This bill would remove the enforcement of an order under the Family Code from the listed types of relief that may not be granted in a limited civil case.

(2) Under existing law, a judgment or order for possession or sale of property made or entered pursuant to the Family Code is subject to a specified period of enforceability and a procedure for renewal. Existing law also provides that a judgment for child, family, or spousal support is enforceable until paid in full and is exempt from any requirement that judgments be renewed, but may be renewed as specified.

This bill would revise and recast these provisions to provide, instead, that a money judgment or judgment for possession or sale of property that is made or entered under the Family Code, including a judgment for child, family, or spousal support, is enforceable until paid in full or otherwise satisfied. The bill would provide that these judgments are exempt from any requirement that a judgment be renewed, but may be renewed as specified.

(3) The bill would require the Judicial Council, on or before January 1, 2008, to develop self-help materials that include a description of the remedies available for enforcement of a judgment under the Family Code, and practical advice on how to avoid disputes relating to the enforcement of a support obligation.

The people of the State of California do enact as follows:

SECTION 1. Section 580 of the Code of Civil Procedure is amended to read:

580. (a) The relief granted to the plaintiff, if there is no answer, cannot exceed that demanded in the complaint, in the statement required by Section 425.11, or in the statement provided for by Section 425.115; but in any other case, the court may grant the plaintiff any relief consistent with the case made by the complaint and embraced within the issue. The court may impose liability, regardless of whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(b) Notwithstanding subdivision (a), the following types of relief may not be granted in a limited civil case:

(1) Relief exceeding the maximum amount in controversy for a limited civil case as provided in Section 85, exclusive of attorney's fees, interest, and costs.

(2) A permanent injunction.

(3) A determination of title to real property.

(4) Declaratory relief, except as authorized by Section 86.

SEC. 2. Section 290 of the Family Code is amended to read:

290. A judgment or order made or entered pursuant to this code may be enforced by the court by execution, the appointment of a receiver, or contempt, or by any other order as the court in its discretion determines from time to time to be necessary.

SEC. 3. Section 291 of the Family Code is repealed.

SEC. 4. Section 291 is added to the Family Code, to read:

291. (a) A money judgment or judgment for possession or sale of property that is made or entered under this code, including a judgment for child, family, or spousal support, is enforceable until paid in full or otherwise satisfied.

(b) A judgment described in this section is exempt from any requirement that a judgment be renewed. Failure to renew a judgment described in this section has no effect on the enforceability of the judgment.

(c) A judgment described in this section may be renewed pursuant to Article 2 (commencing with Section 683.110) of Chapter 3 of Division 1 of Title 9 of Part 2 of the Code of Civil

Procedure. An application for renewal of a judgment described in this section, whether or not payable in installments, may be filed:

(1) If the judgment has not previously been renewed as to past due amounts, at any time.

(2) If the judgment has previously been renewed, the amount of the judgment as previously renewed and any past due amount that became due and payable after the previous renewal may be renewed at any time after a period of at least five years has elapsed from the time the judgment was previously renewed.

(d) In an action to enforce a judgment for child, family, or spousal support, the defendant may raise, and the court may consider, the defense of laches only with respect to any portion of the judgment that is owed to the state.

(e) Nothing in this section supersedes the law governing enforcement of a judgment after the death of the judgment creditor or judgment debtor.

(f) On or before January 1, 2008, the Judicial Council shall develop self-help materials that include: (1) a description of the remedies available for enforcement of a judgment under this code, and (2) practical advice on how to avoid disputes relating to the enforcement of a support obligation. The self-help materials shall be made available to the public through the Judicial Council self-help Web site.

(g) As used in this section, “judgment” includes an order.

SEC. 5. Section 4502 of the Family Code is repealed.

SEC. 6. Section 4502 is added to the Family Code, to read:

4502. The period for enforcement and procedure for renewal of a judgment or order for child, family, or spousal support is governed by Section 291.

Approved _____, 2006

Governor